

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-301-E - ORDER NO. 98-18
JANUARY 9, 1998

IN RE: Hartsville H.M.A., Inc. and)	ORDER
Carolina Power & Light Company,)	DENYING
)	PETITION
Complainants,)	AND GRANTING
)	DATES
vs.)	
)	
Pee Dee Electric Cooperative, Inc.,)	
)	
Respondent.)	
)	
)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for Reconsideration and/or Rehearing of Commission Order No. 97-1031 (the Petition) filed by Pee Dee Electric Cooperative, Inc. (Pee Dee or the Coop.) Because of the reasoning stated below, the Petition must be denied, and the request contained in the response to the Petition by Hartsville H.M.A. and Carolina Power & Light (CP&L) must be granted.

We note that a proceeding addressing the same facts as this case is pending in the Circuit Court. In our Order No. 97-975, we held that discovery and prefiling at the Commission, as well as the hearing at the Commission should be held in abeyance until the Circuit Court rules on the merits of this case. After a

subsequent Petition for Reconsideration and/or Rehearing of this Order filed by Hartsville H.M.A. and CP&L, we issued Order No. 97-1031, which modified the stay period found in Order No. 97-975 to comport with our verbal Order on this matter, which was that discovery, prefilings and the Commission hearing should be held in abeyance until the Circuit Court ruled on Pee Dee's August 25, 1997 Motion to Alter, Amend or Stay the Circuit Court's Orders requiring Pee Dee to remove the poles in question and exhaust its administrative remedies before the Commission.

Pee Dee now files its Petition for Reconsideration and Rehearing of our Order No. 97-1031. The basis for this claim is that it was not given notice or an opportunity to be heard with regard to complainants' motion to hold the proceeding in abeyance. It also appears that Pee Dee is alleging that it was not served with the Complainants' October 31, 1997 filing in which the Complainants characterized Pee Dee's October 22, 1997 letter to the Commission as a motion to hold the proceeding in abeyance.

Actually, CP&L served its filing of October 31, 1997 on Pee Dee by both facsimile as well as U.S. mail. Pee Dee had ample knowledge, in our judgment, that Hartsville H.M.A. and CP&L were interpreting Pee Dee's October 22, 1997 letter as a motion to hold the Commission proceedings in abeyance. Hartsville H.M.A. and CP&L thought, in fact, that they were responding to Pee Dee's Motion to hold the proceeding in abeyance, rather than presenting their Motion to hold the proceedings in abeyance. Pee Dee had specifically asked for oral arguments, and further asked the

Commission to delay all proceedings until after the oral arguments. In essence, Pee Dee appears to be arguing against its own Motion. Hartsville H.M.A. and CP&L assert that Pee Dee's Reconsideration should be dismissed on this basis alone. We decline to dismiss on this basis alone, but agree that this factor should be considered, as well as Pee Dee's claimed violation of its due process rights.

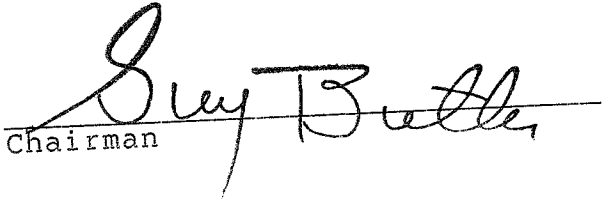
However, Hartsville H.M.A. and CP&L argue that the Petition is moot, given the fact that the Circuit Court has already ruled on Pee Dee's Motion. In fact, the Order states that the proceeding shall not be delayed, but that the parties should immediately proceed to litigate the electric service rights issues before the Commission. We agree that Pee Dee's Petition is now moot. We therefore hold that Pee Dee's Petition must be denied on this basis.

Hartsville H.M.A. and CP&L also request that we set prefiling and hearing dates so that this matter may be resolved, in light of the Circuit Court's Order. We agree, and hold that such dates shall be set by us in the near future through separate documents.

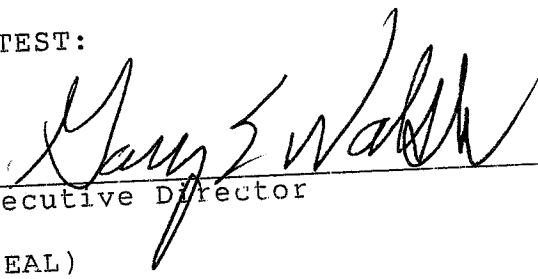
DOCKET NO. 97-301-E - ORDER NO. 98-18
JANUARY 9, 1998
PAGE 4

This Order shall remain in full force and effect until
further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director
(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA
UTILITIES DEPARTMENT

NOTICE OF HEARING

DOCKET NO. 97-301-E

**HARTSVILLE H.M.A., INC. AND CAROLINA POWER & LIGHT COMPANY V. PEE DEE
ELECTRIC COOPERATIVE, INC.**

This matter comes before the South Carolina Public Service Commission on the Complaint and Petition for Emergency Injunctive Relief filed by Hartsville H.M.A., Inc. (HMA) and Carolina Power & Light Company (CP&L) against Pee Dee Electric Cooperative, Inc.

PLEASE TAKE NOTICE that a hearing on the above matter has been scheduled to begin at **10:30 A.M. on Wednesday, April 8, 1998** before the Commission in the Commission's Hearing Room at 111 Doctors Circle, Columbia, South Carolina.

Persons seeking information about the Commission's Procedures should contact the Commission's offices at (803) 737-5115.

Charles W. Ballentine
Executive Director
South Carolina Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211

01-12-98